PUBLIC REPORT OF THE MARKET CONDUCT EXAMINATION

OF THE CLAIMS PRACTICES OF THE

NATIONAL AMERICAN INSURANCE COMPANY OF CALIFORNIA

NAIC # 23671 CDI # 1860-6

AS OF AUGUST 31, 2002

STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE

MARKET CONDUCT DIVISION

FIELD CLAIMS BUREAU

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CALIFORNIA DEPARTMENT OF INSURANCE
Consumer Services and Market Conduct Branch
Field Claims Bureau, 11th Floor
Ronald Reagan State Office Building
300 South Spring Street
Los Angeles, CA 90013

July 14, 2003

The Honorable John Garamendi
Insurance Commissioner
State of California
45 Fremont Street
San Francisco, California 94105

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04 of the California Insurance Code; and Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a) of the California Code of Regulations, an examination was made of the claims practices and procedures in California of:

National American Insurance Company of California

NAIC #23671

Hereinafter referred to as the Company.

This report is made available for public inspection and is published on the California Department of Insurance web site (www.insurance.ca.gov) pursuant to California Insurance Code section 12938.

SCOPE OF THE EXAMINATION

The examination covered the claims handling practices of the aforementioned Company during the period September 1, 2001 through August 31, 2002. The examination was made to discover, in general, if these and other operating procedures of the Company conform with the contractual obligations in the policy forms, to provisions of the California Insurance Code (CIC), the California Code of Regulations (CCR), the California Vehicle Code (CVC) and case law. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al.

To accomplish the foregoing, the examination included:

1. A review of the guidelines, procedures, training plans and forms adopted by the Company for use in California including any documentation maintained by the Company in support of positions or interpretations of fair claims settlement practices.

2. A review of the application of such guidelines, procedures, and forms, by means of an examination of claims files and related records.

3. A review of consumer complaints received by the California Department of Insurance (CDI) in the most recent year prior to the start of the examination.

The examination was conducted at the Company's claims office located in Rancho Dominguez, California.

The report is written in a "report by exception" format. The report does not present a comprehensive overview of the subject insurer's practices. The report contains only a summary of pertinent information about the lines of business examined and details of the non-compliant or problematic activities or results that were discovered during the course of the examination along with the insurer's proposals for correcting the deficiencies. When a violation is discovered that results in an underpayment to the claimant, the insurer corrects the underpayment and the additional amount paid is identified as a recovery in this report. All unacceptable or non-compliant activities may not have been discovered, however, and failure to identify, comment on or criticize activities does not constitute acceptance of such activities.

Any alleged violations identified in this report and any criticisms of practices have not undergone a formal administrative or judicial process.

CLAIMS SAMPLE REVIEWED AND OVERVIEW OF FINDINGS

The examiners reviewed files drawn from the category of Closed Claims for the period September 1, 2001 through August 31, 2002, commonly referred to as the "review period". The examiners reviewed 166 National American Insurance Company of California claims files. The examiners cited 48 claims handling violations of the Fair Claims Settlement Practices Regulations and/or California Insurance Code Section 790.03 within the scope of this report. Further details with respect to the files reviewed and alleged violations are provided in the following tables and summaries.

National American Insurance Company of California			
CATEGORY	**CLAIMS FOR REVIEW PERIOD**	**REVIEWED**	**CITATIONS**
Personal Auto- Collision	670	13	2
Personal Auto- Comprehensive	160	2	0
Personal Auto- Property Damage	2191	48	14
Personal Auto- Bodily Injury	358	6	0
Personal Auto- Medical Payment	32	1	0
Commercial Auto- Collision	781	15	9
Commercial Auto- Comprehensive	149	4	3
Commercial Auto-Property Damage	1289	38	5
Commercial Auto- Bodily Injury	318	7	0
Commercial (General) Liability	48	7	0
Workers Compensation	301	25	15
TOTALS	6297	166	48

TABLE OF TOTAL CITATIONS

Citation	Description	National American Insurance Company of California
CIC§790.03(h)(3)	The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims.	11
CIC§790.03(h)(3)	The Company failed to send required benefit notices in a timely manner on Workers' Compensation claims.	8
CCR §2695.5(b)	The Company failed to respond to communications within fifteen calendar days.	4
CCR §2695.7(h)	Upon acceptance of the claim the Company failed to tender payment within thirty calendar days.	4
CCR §2695.8(b)(1)	The Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile.	4
CCR §2695.8(i)	The Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.	4
CIC§790.03(h)(5)	The Company failed to effectuate prompt, fair, and equitable settlement of Workers' Compensation benefits.	3
CIC§790.03(h)(3)	The Company failed to affirm or deny coverage of claims within a specified time as mandated on Workers' Compensation claims.	2
CCR §2695.7(b)(3)	The Company failed to include a statement in its claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance.	2
CCR §2695.7(c)(1)	The Company failed to provide written notice of the need for additional time every thirty calendar days.	2
CIC§790.03(h)(1)	The Company misrepresented to an injured worker pertinent facts, or sent the benefit notice with incorrect information relating to the amount of benefits or other pertinent information on a Workers' Compensation claim.	1
CCR §2695.5(e)(1)	The Company failed to acknowledge notice of claim within fifteen calendar days.	1
CCR §2695.5(e)(3)	The Company failed to begin investigation of the claim within fifteen calendar days.	1
CCR §2695.7(b)	The Company failed, upon receiving proof of claim, to accept or deny the claim within forty calendar days.	1
Total Citations		48

SUMMARY OF CRITICISMS, INSURER COMPLIANCE ACTIONS AND TOTAL RECOVERIES

The following is a brief summary of the criticisms that were developed during the course of this examination related to the violations alleged in this report. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. In response to each criticism, the Company is required to identify remedial or corrective action that has been or will be taken to correct the deficiency. Regardless of the remedial actions taken or proposed by the Company, it is the Company's obligation to ensure that compliance is achieved. The total money recovered within the scope of this report was $ 179.30.

1. The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims. In 11 instances, the Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims. Ten of these instances pertain to Personal Auto/Commercial Auto claims, while one claim pertains to Workers' Compensation. In the instances cited, there were gaps in significant file activities resulting in claims handling delays. The Department alleges these acts are in violation of CIC §790.03(h)(3).

Summary of Company Response: The Company acknowledged these errors and attributed them to adjuster oversight. While the Company indicated that they have "Best Practices" procedures in place, the Company advised that during the review period covered, the average file pending for each adjuster (Auto claims) had ranged from 175 to 261 files. Receipt of new files per month averaged 50 files per adjuster. The Company duly recognized their deficiency in maintaining a high average pending, and has purposely reduced the average pending to 150 files (per adjuster) currently. The Company believes this will now enhance their ability to handle and settle claims in a timely manner. Subsequent to this examination, the Company conducted additional training to all its claims personnel in which their "Best Practices" standards were also reviewed and reaffirmed.

2. The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims. The Company failed to send required benefit notices in a timely manner on Workers' Compensation claims. In eight instances, the Company failed to send required benefit notices in a timely manner on Workers' Compensation claims. The Department alleges these acts are in violation of CIC §790.03(h)(3).

Summary of Company Response: Although the Company acknowledged the failure or the delay in sending required benefit notices to the injured workers, it contends that in three of these instances, the delay was due to employer tardiness in reporting. The Company also attributed these deficiencies to administrators who did not follow Company protocols as regards the timely set-up of claims on their computer system, and/or sending appropriate notices within a specified period of time, as required by law. The Worker's Compensation business of the Company is now terminated and is in run-off status. As a consequence, there was high turnover of administrators/personnel during the examination period covered. This resulted in some new personnel training issues which the Company addressed by undertaking monthly staff training on legal requirements, rules, regulations, and case law. The number of claim

submissions have tapered off considerably leaving a more manageable pending claims count for each administrator. At six-week intervals, the administrators are required to review payments and benefits notices for accuracy and timeliness compliance. Subsequent to the examination, a training session was completed by all administrators/personnel emphasizing compliance with the law and timely handling of benefits notices.

3. The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims. The Company failed to affirm or deny coverage of claims within a specified time after proof of loss requirements have been completed by the injured worker on Workers' Compensation claims.. In two instances, the Company failed to affirm or deny coverage of claims within a specified time after proof of loss requirements have been completed and submitted by the injured worker on Workers' Compensation claims. The Department alleges these acts are in violation of CIC§790.03(h)(3).

Summary of Company Response: The Company acknowledged these errors and indicated that it is continuing to train and educate their staff on the above requirement. The Company management will monitor the administrators' diary to ensure that claims issues are handled on a timely basis. Subsequent training was completed with the administrators/claims assistants reaffirming the results of the Department's examination. The Company indicated they now have a more 'stabilized' workforce who are continuously trained and monitored for their compliance with regulatory requirements.

4. The Company failed to respond to communications within fifteen calendar days. In four instances, the Company failed to respond to communications within fifteen calendar days. The Department alleges these acts are in violation of CCR §2695.5(b).

Summary of Company Response: The Company acknowledged these errors and attributed them to adjuster errors. By the Company's admission, there was no valid basis for the delays, or the lack of response to communications. The Company addressed this issue accordingly with pertinent claims personnel. The Company has also increased their supervisory staff to better monitor the status of their adjusters' diaries thus ensuring timely responses to correspondence.

5. Upon acceptance of the claim the Company failed to tender payment within thirty calendar days. In four instances, upon acceptance of the claim the Company failed to tender payment within thirty calendar days. One of the claims was closed without issuing any settlement to the insured, while the other three claims had delayed settlements. In a couple of cases, the supervisory instructions to the adjusters were not heeded with regard to the payment of claims. The Department alleges these acts are in violation of CCR §2695.7(h).

Summary of Company Response: The Company indicated that it is their standard procedure and practice to settle claims and issue payments in a timely manner on accepted claims. The Company indicated these errors were due to adjuster oversight, and they have addressed this matter by conducting additional training for their claims personnel in the area of timeliness and compliance with regulations. The supervisors are also tasked with the

responsibility of verifying and following through with diary dates on files, as well as reviewing not only computer file notes, but also the paper files to improve management oversight.

6. The Company failed to include, in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile. In four instances, the Company failed to include in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile. This pertains to the payment of the salvage certificate fee of $3.00 on salvage retention of vehicles, and the reimbursement of the vehicle license fees (VLF). The Department alleges these acts are in violation of CCR §2695.8(b)(1).

Summary of Company Response: The Company indicated that it is their standard procedure to pay all applicable fees on total losses. In the instances cited, the vehicle license fees and salvage certificate fees were omitted due to adjuster errors. As a result of this examination, the Company corrected these errors and paid the additional fees owed to the insureds/claimants. Copies of the Company payments and transmittal cover letters have been provided to the Department for verification. The Company is aware of the need to establish uniformity and consistency in the application of their total loss settlement procedures. Prior to the Department's examination, the Company has recently consolidated the handling of all total loss claims, and assigned one Material Damage adjuster to handle all total losses. The Company believes that this specialization in functions and responsibilities will result in better consistency and accuracy in the handling of total loss payments. The Company also conducted additional training for their claims staff, incorporating the results of the Department examination.

7. The Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation. In four instances, the Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation of the claim. The Department alleges these acts are in violation of CCR §2695.8(i).

Summary of Company Response: The Company acknowledged that no subrogation notification letters were sent to the insureds in these instances. The Company has computer-generated form letters on their system that automatically prompts the adjuster to send this notification letter if applicable. Another prompt option is available upon issuance of a settlement check. The Company therefore attributes these cases to adjuster oversight, and has conducted additional training of their claims staff to reinforce these compliance requirements. This issue was also specifically addressed with the pertinent personnel handling these claims. Supervisory review will include monitoring compliance with CCR §2695.8(i).

8. The Company failed to effectuate prompt, fair, and equitable settlement of claims. In three instances, the Company failed to effectuate prompt, fair, and equitable settlement of Workers' Compensation benefits. The Department alleges these acts are in violation of CIC§790.03(h)(5).

Summary of Company Response: The Company acknowledged that the cited files violated Company procedures of paying indemnity benefits within three working days of

receiving the report. The Company reiterated to the administration staff that it is mandatory to pay benefits in a timely manner until all benefits due and payable are exhausted. This was emphasized to all administrators/claims assistants during the training session conducted subsequent to the examination. The new claims assistants are assisting the administrators in the timely payment of benefits and issuance of benefits notices issued to injured workers.

9. The Company failed to advise the claimant that he or she may have the claim denial reviewed by the California Department of Insurance. In two instances, the Company failed to include a statement in its claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance. The Department alleges these acts are in violation of CCR §2695.7(b)(3).

Summary of Company Response: The Company acknowledged that the appropriate referral language on claim denials was not included in these two instances, and indicated that this is not in conformity with Company standard procedures. The Company has computer-generated form letters for denials which contain the required language. Effective August 2002, the Company instituted supervisory audit procedures, which include the review of all claim denials/denial letters. Subsequent to the examination, additional training was undertaken by management for their claims staff focusing on compliance with California regulations.

10. The Company failed to provide written notice of the need for additional time every thirty calendar days. In two instances, the Company failed to provide written notice of the need for additional time every thirty calendar days. The Department alleges these acts are in violation of CCR §2695.7(c)(1).

Summary of Company Response: The Company acknowledged that their claims adjusters failed to send 30-day status letters to all interested parties in accordance with the insurer's practices and Department regulations. The Company has reduced its average pending of files for each adjuster to enhance their ability to handle all claims promptly. Prior to the examination, the Company also increased the number of supervisors for better monitoring of claims handling. The Company has implemented additional training subsequent to the examination and will be conducting frequent periodic supervisory file reviews.

11. The Company misrepresented to an injured worker pertinent facts, or sent the benefit notice with incorrect information relating to the amount of benefits or other pertinent information on a Workers' Compensation claim. In one instance, the Company misrepresented to an injured worker pertinent facts, or sent the benefit notice with incorrect information relating to the amount of benefits or other pertinent information on a Workers' Compensation claim. The Department alleges this act is in violation of CIC§ 790.03(h)(1).

Summary of Company Response: The Company agreed that in the instance cited, the Total Disability benefit was computed and paid at the incorrect rate, although the appropriate correction was effected before the claim file was closed. The Company has a

supervisory review process in place, which will be enhanced to include reviews of computation of wage rates. Internal training sessions and seminars are likewise scheduled on a monthly basis to include training on calculation of average weekly wages, total disability rates and proper use of benefits notices.

12. **The Company failed to comply with the Fair Claims Practices Regulations.** In one instance each, the Company failed to comply with the following Fair Claims Practices Regulations: CCR§ 2695.5(e)(1), CCR§ 2695.5(e)(3), and CCR§ 2695.7(b).

Summary of Company Response: The Company acknowledged the errors and indicated that standard procedures in effect address adherence to the cited regulations. The Company further indicated that the errors cited are due to adjuster oversight. Prior to the examination, the Company increased the number of supervisors to better monitor and ensure compliance with company practices and California regulations. The Company has also instituted a new procedure of sending out acknowledgment letters at the onset of a claim. Additional training was conducted subsequent to the examination to emphasize timeliness, accuracy, and compliance with California regulations.